

Draft Minutes of the
Delta Protection Commission Meeting
May 22, 2003
Jean Harvie Community Center – 6:30 p.m.

1. Call to Order/Roll Call

Chairman McCarty called the meeting to order at 6:40 p.m.

Present: Chairman McCarty, Augie Beltran, Christopher Cabaldon, Robert Calone, Marci Coglianese, Banky Curtis, Vice-Chairman Robert Ferguson, Kathy Kelly, Mike McGowan, Leroy Ornellas, Don Nottoli, Dwight Sanders, Steve Shaffer, and Topper van Loben Sels.

Absent: Ron Brean, Federal Glover, David Johnson, Daniel Wilson

2. Public Comments

Chairman McCarty invited those in the audience to address the Commission regarding items not on the agenda. No one addressed the Commission.

3. Minutes of the Last Meeting

Chairman McCarty asked the Commissioners to be extra diligent in reviewing the minutes because there had been no sound system. Commissioner Cabaldon moved approval of the minutes; Commissioner Kelly seconded. The minutes were approved by voice vote; Commissioner Beltran abstained.

4. Chairman's Report

Chairman McCarty asked for approval of a Resolution of Appreciation for Bill Curry for ten years of service on the Commission. On a motion by Commissioner Shaffer and seconded by Commissioner van Loben Sels, the resolution was approved unanimously by voice vote.

Chairman McCarty said the agenda item regarding SB 86 would be removed from agenda because Senator Mike Machado would not pursue the bill during the current legislative session; however, the Senator might revisit the issue of a Delta Conservancy during the next year.

Chairman McCarty reported that he, Commissioner McGowan, and Executive Director Margit Aramburu, and in a separate meeting, Commissioners Cabaldon and Coglianese met with the Assembly Budget Committee and Assemblymember Lois Wolk concerning the future and funding of the Commission. The Commission received a report the day before from the Legislative Analyst's Office (LAO), conducted at the request of Assemblymember Wolk, that determined the DPC was duplicative of the Bay Delta Authority and its citizens advisory group, the Bay-Delta Public Advisory Committee (BDPAC). Furthermore, Assemblymember Wolk cited

concerns over the DPC membership composition and asserts that several former members claim the DPC does nothing and has accomplished the goals and objectives set for it. Assemblymember Wolk recommended to the Budget Committee that the Environmental License Plate portion of the DPC budget be cut (a 46% reduction); and a sunset provision of two years be added. During the next two years, the DPC would be charged with finding a replacement. The Budget Committee voted unanimously to cut the Commission's Environmental License Plate Funding and to sunset the Commission on July 1, 2004 (one year).

Chairman McCarty said that Mr. John Herrick of the South Delta Water Agency was unable to attend the meeting and could not find a replacement to make the presentation on Agenda Item #10, which dealt with the issue of Term 91. He opened the meeting to public comment on this item. There were no public comments. He said he would reschedule the item for a future meeting.

Item #11 (*Consideration of Potential Funding Cuts to the Williamson Act Program*)
Chairman McCarty said that Agenda Item #11 was removed because the May Revisions to the Budget included funding for the Williamson Act, therefore the item was no longer an issue.

The next meeting of the Delta Protection Commission is Thursday, July 24, 2003 at the Jean Harvie Community Center, at 6:30 p.m.

5. Commissioner Comments/Announcements

Commissioner Curtis reported that the Wildlife Conservation Board approved \$300,000 that had been earmarked for developing a management plan for Lower Sherman Island. The idea is to blend the ecological, environmental, and recreational needs of the Delta into a plan that could utilize property already in State ownership. The Wildlife Conservation Board will be issuing a Request for Proposal and contract a consultant to produce the plan. The plan will be an open process patterned after the Yolo Basin property acquisitions. Commissioner Curtis asked that anyone interested in becoming involved in the project let him know.

Commissioner Coglianese reported on the biosolids application controversy in Solano County. She said the Board of Supervisors decided to allow it to continue but modified the county ordinance to provide greater buffers between the spreading activities and rural residences. She said she spent several months on the issue and was invited to the National Research Summit sponsored by the Environmental Protection Agency and the Water Environment Research Foundation in Washington at the end of July; the summit will focus on responding to the National Research Council Report and the issues she raised at the last meeting regarding biosolids. She said she had an opportunity to help formulate some of the research questions and asked for ideas on where the research dollars should be spent.

Commissioner Ferguson reported that the Natural Resources Conservation Service (NRCS) is reviewing applications for Resource, Conservation and Development programs nationwide. Of the 28 applications received, an advisory group will recommend five to the Secretary of Agriculture for funding. Letters of support for the Delta application must be submitted by May 30th.

6. Attorney General's Report

Dan Siegel updated the Commission on CALFED litigation. He said three groups filed separate lawsuits challenging the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and one lawsuit named the DPC as a defendant. That lawsuit was dismissed. The remaining plaintiffs in the other two lawsuits have consolidated their lawsuits in State Court; and, their claims have been rejected in Superior Court. It is expected an appeal will be filed. Another outstanding lawsuit by the Farm Bureau was dismissed by the federal district court; however, that lawsuit is up for appeal before the 9th Circuit Court of Appeal.

7. Executive Director's Report

Ms. Aramburu stated that the San Rafael Quarry lawsuit has been scheduled for July 17, 2003 and she will keep the Commission informed as the lawsuit proceeds.

Ms. Aramburu reported she attended a two-day conference sponsored by UC Davis on *Agricultural Easements*. The conference focused on ways to protect agricultural land through non-acquisition rather than fee-title acquisition.

Ms. Aramburu contacted and met with Sacramento County staff to investigate the possibility of renting the vacated Walnut Grove Courthouse. This would allow the DPC to have its own meeting space.

Ms. Aramburu stated she has been working Commissioner David Johnson to secure funding from the Department of Boating and Waterways (DBW) to prepare a Delta Recreation Master Plan. Currently DWR has a Delta *Boating Needs Assessment* report in the Governor's Office waiting to be released. The Master Plan would develop a better regional vision for recreation in the Delta, building upon earlier work by the Commission and Department of Parks and Recreation (DPR), and the current *Boating Needs Assessment*. Ms. Aramburu reported that since the DPC has received no monies from CALFED or other agencies, it may be seeking donations of CALFED agency staff time or other services in lieu of cash.

8. CALFED Activities and Projects

Ron Ott stated that the Bay Delta Public Advisory Committee (BDPAC) and its subcommittees have been formulating Year 4 and Year 4-7 plans to integrate

CALFED key mile stones. He reported the Bay Delta Authority will hold its first meeting on June 11, 2003, but since all appointments to the Authority have not been made, all items must go before the Authority as resolutions.

Mr. Ott stated that CALFED is preparing an Implementation Plan for the Delta region. He said that Ms Aramburu, staff from American Farmland Trust (AFT) and CALFED staff met with Saracino, Kirby and Snow, the consulting firm preparing the plan. The Delta Ecosystem Restoration Plan is underway by the Department of Fish and Game staff and one chapter of the plan has been released. The next chapter of the plan will be released in early summer for public review.

Los Vaqueros Reservoir expansion: Several discussion meetings are being held to respond to comments received to date; the next meetings are scheduled in Antioch and Concord on May 29th, 2003.

In-Delta Storage: The USBR/DWR summary report was released May 2003. The report addresses whether the Delta Wetlands project would meet the definition of a "public facility" if it comes under public ownership. As part of the project, re-engineering alternatives report is scheduled for July 2003 and will have a 30-day public review period. At the same time (mid-August), the Independent Science Board will address water quality and environmental aspects of the project.

Conveyance: The Draft EIS will be available this fall for the South Delta Project. North Delta Flood Control/Ecosystem Project draft EIR/EIS will be released in December 2003.

CALFED will convene a *science symposium* to bring together all available data on integrated approach in the South Delta. The first symposium will look at data used in environmental assessments—this data will be used in environmental assessments performed by water agencies and by fishery agencies to do a biological opinion.

Commissioner Shaffer said that as the Delta Implementation Plan consultants move forward, CALFED should engage the DPC early in the process. Mr. Ott agreed, saying CALFED wanted to solicit individual ideas before putting anything in writing.

9. Briefing on Friends of the Delta

Jeff Hart, a five-year resident of Grand Island, briefed the Commission on recent efforts to form a new local non-profit entity to explore ownership and management options for three Delta islands currently in federal and non-profit ownership: Liberty Island (owned by the Trust for Public Land in anticipation of USFWS ownership); Little Holland Tract (owned by the Corps of Engineers); and Prospect Island (owned by the Bureau of Reclamation). *Friends of the Delta* was initiated out of frustration from various conservation, recreation, farming, and flood control interests over the

management on these properties. Proposed restoration for Prospect Island, coordinated by the Bureau, the Corps, and DWR as part of the proposed North Delta National Wildlife Refuge, has been stalled because of insufficient funding and lack of local support. The Bureau is now interested in passing the property on to another entity.

Mr. Hart gave a slide presentation resulting from meetings and discussions with landowners in the northwest part of the Delta as well as resource agencies and government entities. One stated goal of *Friends* is to provide grass-roots advocacy for local input to restoration, conservation, and education projects; another is to preserve the local tax base, perhaps generating income from eco- or agri-tourism. *Friends* wants habitat enhancement and conservation actions that are compatible with farming, flood control, and recreation, in addition to contributing toward CALFED's goals.

Mr. Hart said he feels there is a need to educate people outside of the Delta about Delta environmental issues and about finding common ground among various farming, natural resource, flood control, and recreational interests. He said a possible outcome could be for *Friends* to become a land conservancy, and if *Friends* does become a conservancy, habitat restoration could occur on these properties. He then discussed the advantages of a conservancy: as a locally based group, *Friends* has developed a base of knowledge in habitat restoration; it already has a proven track record and has secured CALFED funding. Also, a conservancy would best represent a diversity of recreational interests, from traditional hunting and fishing to newer ideas such as nature appreciation and eco- and agri-tourism.

After a question and answer period, it was suggested by Commissioner Shaffer that the newly proposed entity use assets as a laboratory to have the CALFED science program directly involved in looking at opportunities for performing the restoration work and including a working landscapes approach. He also suggested that the project move forward with CALFED and CALFED ERP, but routinely brief the DPC Agriculture Committee or CALFED Committee on its progress.

Mr. Zuckerman, *Friends of the Delta* suggested that *Friends* try to implement some of these things so that regulatory agencies do not have an overlap.

Commissioner McGowan felt it was too premature to decide if the Commission was going to support/deny/remain neutral. He suggested the Commission monitor the situation.

10. Briefing on Term 91 Issue in South Delta and Possible Impacts to Agriculture

Chairman McCarty rescheduled this item for a future date. Mr. John Herrick, Counsel to the South Delta Water Agency will present this item after the State Water Resources Control Board holds its hearing on the matter.

11. Possible Position re: Proposed Elimination of Funding to Counties to Offset Costs of Williamson Act Contracts

Chairman McCarty removed this item from the agenda.

12. Proposed Grant Application to State Water Resources Control Board (SWRCB) for Funds to Design and Implement a Deltawide Monitoring Plan to Meet Requirements of Central Valley Regional Water Quality Control Board's Adopted Waiver for Agricultural Discharges

Ms. Aramburu said the Central Valley Regional Water Quality Control Board adopted a waiver for agriculture discharges for the Delta. A condition of the waiver requires that individual or groups of dischargers provide monitoring plans of their discharges. Additionally, grant funds are available through SWRCB that can be used by these groups to provide monitoring and educational outreach programs. The North Delta Water Agency (comprised of Sacramento, Solano and Yolo Counties) and many dischargers in the remainder of the Delta (comprised of San Joaquin County, the Central and South Delta Water Agencies and some districts in Contra Costa County) are working with other dischargers in outside the Delta to develop programs. As an alternative, the DPC staff presented an application the SWRCB an application covering the legal Delta. She stated this option would be a good project for an RC&D if the program was funded. Ms. Aramburu explained that while the application was submitted by the Delta Protection Commission, if accepted, it will be transferred to another entity.

Chairman McCarty opened the public hearing; there were no public comments. The public was closed.

It was moved by Commissioner van Loben Sels and seconded by Commissioner Beltran for approval of the application; Commissioner Cabaldon abstained.

13. Proposed Budget and Work Plan for FY 03-04

Ms. Aramburu gave the Commission a background on the DPC budget funding for Fiscal Years 2003-2004 where approximately \$300,000 has been designated in the Governor's budget for FY 03-04 from two special funds.

Ms. Aramburu reported that she attended the Assembly Subcommittee #3 Budget Hearing where the DPC budget was listed on the consent calendar for approval. However, Assemblymember Lois Wolk removed the DPC agenda item from the calendar and asked the Legislative Analyst's Office (LAO) to produce a report to determine if there was overlap between the duties of the Delta Protection Commission and other State Agencies—especially the Bay Delta Authority. In two separate meetings, Assemblymember Wolk met with Ms. Aramburu, Chairman McCarty, Commissioners Cabaldon, Coglianese and McGowan to discuss the findings of the LAO report. Specifically the LAO found that (1) the Delta Protection Commission has

completed their assigned tasks; (2) with the creation of the new Bay Delta Authority, there is overlap; and, (3) the Delta Protection Commission should be eliminated as a State-funded Agency.

It was proposed at the meeting(s) that the Environmental License Plate Funding of the DPC's budget (\$140,000) be eliminated, the Commission would sunset within one year, and another entity (if appropriate) should be created in its place. Ms. Aramburu mentioned that at the Budget meeting, American Farmland Trust, CALFED, California Farm Bureau Federation, and former Senator Patrick Johnston spoke in support of retaining the Delta Protection Commission. She also noted that the Senate Budget Subcommittee had approved the DPC's proposed budget on March 20, 2003.

Chairman McCarty praised those who spoke in support of the DPC. He said he supported former Senator Johnston's point of view that this action is an affront to the farm community in the Delta and landowners in the Delta should take this personally and be very concerned on the attempt to replace the DPC. He urged the Commissioners to look at DPC configuration and whether the DPC is fulfilling their stated mission. He said he did not see the DPC's tasks as duplicative and the DPC is the only Agency whose charge is to maintain, preserve and enhance the Delta's resources. He believed it critical for the Commission to sustain itself in order to maintain a balance for viable agriculture in the Delta and recreation.

Commissioner Coglianese asked the Commission to remember that it is "ground zero" for many activities central to the State, fragmented jurisdictionally, lightly populated and serves a place for the Delta community to bring its issues and without a Commission, CALFED would have a difficult time. She felt it was a matter of pragmatism for those interested in "water issues" to continue the DPC.

Commissioner Cabaldon felt that once the Commission wins this battle, it should seriously look itself in the mirror to make sure its credible with the balance of issues affecting the Delta if the members are committed to defending the Commission. He suggested the Commission protect its allocation with the Senate to make sure the Senate does not conform to the Assembly.

Commissioner McGowan said he felt troubled and challenged by the accusations against the DPC. He has been with the Commission since its beginning and the Commission does a tremendous amount of work with its limited authority.

Commissioner Beltran announced he would place this item on his Council agenda to begin a letter writing campaign to send to cities with in the San Joaquin Council of Government (COG). He asked that the Commission members look at the possibility that the DPC might come to an end within a year and they should look at the conservancies that might be the replacement for the DPC and creating a partnership with them while they are in their initial state.

Dan Siegel advised the members to be cautious of what the Commission can do in terms of advocacy as opposed to individuals. He said the Commission can go to the legislature and point out its position; however, it cannot campaign for public support, as that is deemed an inappropriate role.

Commissioner Notolli announced that the Commission has accomplished a great deal over the past decade and believed his board would support the continued existence of the Commission. He said that he too will place this matter on the Sacramento County Board of Supervisors' agenda and have the Sacramento County legislative advocate work on the matter to see the Commission and its mission is continued.

Commissioner Coglianese requested that Ms. Aramburu keep the Commission informed by e-mail as to process and milestones so that the members do not inadvertently miss any key dates.

Commissioner Cabaldon said as the issue proceeds, Legislators from other parts of the State will be influenced by the DPC's state agency partners as much the local governments. He said he recognized their limitations to weigh in on the matter. He felt that the DPC provides a forum that is essential and would have to be reinvented in other agencies should the DPC not exist. He said other members of the Legislature outside of the Delta need to hear that message.

Ms. Aramburu suggested the Commissioners postpone action on the workplan and budget until the Legislature adopts a budget.

14. Proposed Modifications to Records Retention Policy

Chairman McCarty deferred this item until the next meeting.

15. Position on Pending Legislation

Chairman McCarty deferred this item until the next meeting.

16. Other Business

Chairman McCarty presented Ms. Aramburu, with certificates of recognition from Senator Mike Machado and former Senator Patrick Johnston and a "three legged stool" to celebrate her ten year anniversary as Executive Director.

17. Adjourn

Chairman McCarty adjourned the meeting at 9:00 p.m.